

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

In re:	§	(Jointly Administered Under
	§	Case No. 21-60162-rbk)
DARYL GREG SMITH and	§	
CANADIAN RIVER RANCH, LLC	§	Chapter 11
	§	
Debtors.	§	
	§	

STATEMENT BY DARYL GREG SMITH OF ISSUES ON APPEAL

COMES NOW Daryl Greg Smith (the “Debtor”), one of the debtors in the above styled and numbered jointly administered Chapter 11 bankruptcy case (the “Bankruptcy Case”), and, with respect to his *Notice of Appeal* at docket no. 252, hereby files his *Statement of Issues on Appeal* (the “Statement”).

With respect to the Bankruptcy Court’s *Order Regarding Limited Objection to Debtor’s Claimed Exemptions* [docket no. 243] (the “Exemption Order”):

1. Whether the Bankruptcy Court erred in entering the Exemption Order because it permitted Karen Annette Smith (“K. Smith”) and Gregory S. Milligan, Trustee (the “Trustee”) to present evidence and argument against the Debtor’s exemption of his membership interests in Caddoa Creek Ranch, LLC (“Caddoa”) that were: (i) outside the pleading filed by K. Smith objecting to the same and in which pleading the Trustee was permitted to join; and (ii) otherwise time barred as they were outside such pleading and did not relate-back to such pleading?

2. Whether the Bankruptcy Court erred in entering the Exemption Order by misapplying the correct burden of proof on the value of Caddoa, insofar as the Bankruptcy Court found that the value of certain litigation claims owned by Caddoa exceeded the applicable exemption limit even though neither K. Smith nor the Trustee presented any evidence on the value of such litigation claims?

3. Whether the Bankruptcy Court erred in entering the Exemption Order by finding that certain litigation claims owned by Caddoa exceeded the exemption limit when the Bankruptcy Court had previously, by final and non-appealable order, concluded that said litigation claims were barred by *res judicata* and/or collateral estoppel, such that said litigation claims had no value.

4. Whether the Bankruptcy Court erred in entering the Exemption Order by finding that the value of Caddoa exceeded the exemption limit, including: (i) by improperly finding value to an alleged account receivable of Caddoa; (ii) by failing to take into account the value of Caddoa's offsetting liabilities, which reduced the value of Caddoa to \$1.0 or less; and (iii) by ascribing a hypothetical future value to Caddoa which is not permitted when valuing an exemption and which there was no evidence of.

With respect to the Bankruptcy Court's *Order Approving Second Amendment to Operating Agreement of Caddoa Creek Ranch, LLC* [docket no. 245] (the "Approval Order"):

5. Whether the Bankruptcy Court erred in entering the Approval Order, if the Exemption Order is otherwise reverse, because, in such instance, Caddoa would not be property of the estate and the Bankruptcy Court would have no jurisdiction or authority over its internal governance.

The Debtor reserves the right to amend or supplement this Statement.

RESPECTFULLY SUBMITTED this 7th day of December, 2021.

MUNSCH HARDT KOPF & HARR, P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this the 7th day of December, 2021, true and correct copies of this document were electronically served by the Court's ECF system on the following:

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